SUPREME COURT OF THE UNITED STATES.

No. 345.

THE STEAMER LOUIS D'OR, HER TACKLE, ECT., CHENEY JOHNSON ET AL., CLAIMANTS, APPELLANTS.

VS.

THE UNITED STATES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

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1 To the honorable the judges of the circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana:

The libel of information of Rufus Waples, attorney of the United States for the eastern district of Louisiana, who prosecutes for the said United States in this behalf, and being here present in court, in his own proper person, in the name and behalf of the said United States of America, and Charles Black, sr., informant, against the steamer Louis D'Or, her tackle, apparel, &c., hereinafter described, and against all persons intervening for their interest therein, in a case of seizure and forfeiture, alleges, propounds, and declares as follows:

I. That Cuthbert Bullitt, esq., marshal of the United States for the said district, under written authority given him by the said attorney, in compliance with instructions issued by the Attorney General of the United States to the district attorneys thereof, and by virtue of the act of Congress, approved on the sixth day of August, in the year of our Lord one thousand eight hundred and sixty-one, entitled "An act to confiscate property used for insurrectionary purposes," heretofore, that is to say, on the 30th day of June, in the year one thousand eight hundred and sixty-five, seized as forfeited to the United States, at New Orleans, within said district, and within the jurisdiction of this court, the steamer Louis D'Or, her tackle, apparel, machinery, furniture, &c.

2 II. That by the act of the Congress of the United States, approved August 6, 1861, entitled "An act to confiscate property used for insurrectionary purposes," it was provided, "that if, during the present or any future insurrection against the government of the United States, after the President of the United States shall have declared by proclamation that the laws of the United States are opposed, and the execution thereof obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the power vested in the marshals by law, any person or persons, his, her, or their agent, attorney, or employee, shall purchase or acquire, sell or give, any property of whatever kind or description, with intent to employ the same, or suffer the same to be used or employed, in aiding, abetting, or promoting such rebellion or resistance to the laws, or any person or persons engaged therein; or if any person or persons, being the owner or owners of any such property, shall knowingly use or employ, or consent to the use or employment of the same as aforesaid, all such property is hereby declared to be lawful subject of prize and capture wherever found; and it shall be the duty of the President of the United States to cause the same to be seized, confiscated, and condemned."

III. That the President of the United States did, on the 15th of April, 1861, declare by proclamation, "that the laws of the United States are opposed and the execution thereof obstructed by combinations too powerful to be be suppressed by the ordinary course of judicial proceedings, or by the power vested in the marshals by law;"

and that on the 16th of August, 1861, he did reiterate said proclamation, and did declare that "such insurrection" still existed and had not been suppressed.

IV. 1. That the property herein above described was used and employed knowingly by the owner or owners thereof, in aiding, abetting or promoting the said insurrection and resistance to the laws, within the meaning of the said act of Congress, after the approval of the said act, and after the public proclamations of the President above mentioned, and after the 16th day of August, 1861, by being used in transporting troops of the so-called confederate States in insurrection against the United States, and in transporting munitions of war and supplies for the use of said troops in rebellion.

2. That the property herein described was used and employed knowingly, by the owner or owners thereof, in aiding and abetting persons engaged in the said insurrection and resistance to the laws, within the meaning of the said act of Congress, after the approval of said act, and after the public proclamations of the President above mentioned, and after the 16th day of August, 1861, by being used in transporting troops of the so-called confederate States in armed rebellion against the government of the United States, and in transporting munitions of war and supplies for the use of the said troops in insurrection.

3. That the said property was purchased, and acquired, and sold, and given, by the owner or owners thereof, or by his, her, or their agent or employee, with intent to use or employ the same for the purpose of aiding, abetting, and promoting the said insurrection and resistance to the laws, after the approval of said act, and after the public proclamations above mentioned, and after the 16th day of August, 1861, by being used in transporting troops of the so-called Confederate States in insurrection against the government of the United States, and in transporting munitions of war and supplies for the use of said troops.

4. That the owner or owners of said property did knowingly consent to the use or employment of it for the purpose of aiding, or abetting, or promoting said insurrection and resistance to the laws, or of aiding, abetting, or promoting persons engaged therein, after the approval of said act, and after the proclamations above mentioned, and after the 16th day of August, 1861, by permitting the property to be used as aforesaid.

5. That the owner or owners of said property, his, her, or their agent or employee, did suffer said property to be used or employed in aiding, abetting, or promoting the insurrection proclaimed by the President as aforesaid, and in aiding, abetting, or promoting a person or persons engaged in said insurrection, after the approval of act above mentioned, and after the proclamation of the President, duly made public on the 16th day of August, 1861, by permitting the use of the property for the purposes above stated.

V. That by reason of the premises, the property herein described became and was forfeited to the United States, and ought to be con-

fiscated and condemned to the use of the said United States as enemy property.

Wherefore, the said attorney, in the name and behalf of the United States of America, prays that process of monition may issue against the said property and the owner or owners thereof, and against all persons interested or claiming an interest therein, warning them at some early day, to be named therein, to appear and answer
3 this libel of information; and that an order of publication may be made in the usual form; and that all due proceedings being had, this honorable court may be pleased to decree for the condemnation and forfeiture of the said property to the use and ownership of the said United States, and of Charles Black, sr., informant; and he prays for such further relief as the court is competent to give in the premises.

(Signed) RUFUS WAPLES,
United States Attorney for the Eastern District of Louisiana.

Filed July 8, 1865.

4 The President of the United States of America to the marshal of the eastern district of Louisiana, or to his lawful deputy, greeting:

You are hereby commanded forthwith to seize, and into your possession take, the *the* steamer Louis D'Or, her tackle, apparel, machinery, furniture, &c., described in the libel filed by the dist. att'y, now of record in this court, and now libelled by the United States for the causes set forth in the libel pending in the circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana; that you do cite and admonish the owner or owners, and all and every other person or persons having or pretending to have, any right, title, or interest in or to the same, to be and appear before a circuit court of the United States, for the district aforesaid, to be holden at the city of New Orleans on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said property should not be condemned and sold agreeably to the prayer of the libellant; and how you have executed this warrant that you make return according to law.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this 10th day of July, A. D. 1865, and 90th year of the independence of the United States.

(Signed) F. B. VINOT, *D'y Clerk.*

5 *U. S. marshal's monitions.*

In the United States circuit court for the sixth circuit and eastern district of Louisiana.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR, her tackle, apparel, &c. } No. 3,614.

In obedience to an admiralty warrant to me directed in the above-

entitled suit, I have seized and taken into my possession the steamboat Louis D'Or, her tackle, apparel, and furniture, now libelled by the United States of America, for the causes set forth in the libel now pending in the circuit court of the United States. And I do hereby cite and admonish the owner or owners thereof, and all and every person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear at a circuit court of the United States, for the district aforesaid, to be holden at the city of New Orleans on or before the third Monday from the date hereof, to show cause, if any they have or can, why the said steamer, her tackle, apparel, and furniture, should not be condemned as forfeited to the United States, and be sold agreeably to the prayer of libellants, and the proceeds thereof be distributed according to law.

United States marshal's office, New Orleans, 11th day of July, 1865.

CUTHBERT BULLITT,
United States Marshal.

Marshal's return.

Received July 11th, 1865, and having seized and taken into my possession the property described within, on the authority of a previous writ, I posted a copy of this warrant, the libel, and order of the judge on the door of the court-house, and published monition in the N. O. Times, a daily paper printed and published in the city of New Orleans, on the 12th, 18th, 22d, and 29th July, 1865.

N. Orleans, July 31st, 1865.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

6 *Order of publication.*

United States circuit court for the sixth judicial circuit and eastern district of Louisiana.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR, her tackle, apparel, &c. } No. 3,614.

Whereas the steamer Louis D'Or, her tackle, apparel, &c., described in the libel filed by the district attorney and now of record in this court, and all the right, title, and interest therein has been seized by the marshal of the United States for the eastern district of Louisiana, by virtue of an act of Congress, approved on the sixth day of August, in the year of our Lord one thousand eight hundred and sixty-one, entitled "An act to confiscate property used for insurrectionary purposes," and whereas the United States attorney for the eastern district of Louisiana did, on the 8th day of July, A. D. 1865, file a libel of information in this court, praying the condemna-

tion of said property, under the act aforesaid, and that process of monition issue against the owner and owners of said property, and all persons interested or claiming an interest therein. warning them at some early day to appear and answer said information.

It is, therefore, on this 10th July, in the year of our Lord eighteen hundred and sixty ———, ordered that notice be given to the owner and owners of said property and real estate, and all persons interested or claiming interest therein, to appear and answer this information on the 31st day of July, 1865, and show cause, if any they have, why said property and the right, title, and interest therein should not be condemned and sold according to law; and that notice be given by posting a copy of this order upon the front door of the court-house of the district, and by publication in the N. O. Times newspaper twice a week previous to said 31st day of July, A. D. 1865, the first publication to be on or before the 17th instant.

(Signed) E. H. DURELL, *Judge.*

New Orleans, July 10th, 1865.

7 *Claim of Cheney Johnson.—Filed July 25th*, 1865.

United States circuit court, sixth judicial circuit, and eastern district of Louisiana.

UNITED STATES *vs.* THE STEAMER LOUIS D'OR, her tackle, apparel, and furniture.	No. 3,614.

The claim of Cheney Johnson, a resident of Franklin, parish of St. Mary, State of Louisiana, and a loyal citizen of the United States, herein appearing in his own behalf, claims the property herein libelled, and says that he is the bona fide owner of said property, and that no other person or persons are the owners thereof. He asks leave to file this his claim, and that said property be restored to him, and for such other order as may be right and to justice appertain.

(Signed) C. JOHNSON.

(Signed) BUDD & LAMBERT,
Proctors.

Sworn to and subscribed before me, this 25th day of July, 1865.

(Signed) F. B. VINOT, *D'y Clerk.*

Answer of Cheney Johnson.—Filed July 25th, 1865.

To the honorable the judges of the circuit court of the Uni-
8 ted States for the sixth judicial circuit and eastern district of Louisiana.

THE UNITED STATES
vs.
THE STEAMER LOUIS D'OR, her tackle, apparel, &c., &c. } No. 3,614.

The answer of Cheney Johnson, a loyal citizen of the United States, to the libel of information filed by the United States district attorney against the steamboat Louis D'Or, her tackle, apparel, and furniture, particularly alleges and propounds as follows, to wit:

1st. To the first article of the libel he says that he admits the seizure of his steamboat Louis D'Or, but denies that the same was legally made.

2d. He admits the passage of the various acts of Congress, and the putting forth of the presidential proclamations mentioned in the second and third articles in the libel, but says and now avers that they have no applicability to the steamboat Louis D'Or or her owner.

3d. And as for the matters and things set forth in the fourth article of the libel and the subsidiary clauses thereof, he says, that in everything there contained tending in any manner or form to show the said steamboat Louis D'Or liable to confiscation, the same are altogether misstated and erroneously alleged; the truth being that said steamboat never was used by the will and consent of her owner, or of his lawful agent, to aid the enemies of the United States.

5th. That if the enemies of the United States, or the so-
9 called confederate government or States, used the same it was not by the consent of the owner or agent, but by intimidation and force and pressure.

6th. And your respondent avers that all and singular the premises are true. Wherefore this respondent prays this honorable court to pronounce against the libel aforesaid, and condemn the libellants to pay costs, and otherwise law and justice in the premises administer.

(Signed) C. JOHNSON.
(Signed) BUDD & LAMBERT.
Proctors.

Sworn to and subscribed before me, this 25th July, 1865.
(Signed) F. B. VINOT, *D'y Clerk.*

Petition to bond.—Filed July 25, 1865.

To the honorable the judges of the circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana.

The petition of Cheny Johnson respectfully represents, that he is the owner of the steamboat Louis D'Or, her tackle, apparel, and furniture, &c.; that said boat has been libelled in said court, No. 3,614 of the docket thereof; that he has filed his claim to said boat

in said court, and that said boat is now repairing in order to load for Red river.

Whereupon he prays that he be permitted to give bond for said boat, and that she be released and restored to his possession,
10 and for all necessary orders, &c.

(Signed) BUDD & LAMBERT, *Proctors.*

Order.

Let the steamer Louis D'Or be appraised by H. G. Heartt and Richard Swain for the purpose of ascertaining its value, and let the petitioner, Cheney Johnson, be permitted to bond the said steamer upon his furnishing bond in an amount exceeding by one-half the appraised value of said steamer with good and solvent security, conditioned as the law directs, and upon payment of costs of appraisement.

(Signed) E. H. DURELL, *Judge.*

New Orleans, July 25th, 1865.

Notice to appraisers.—Issued July 25th, 1865.

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
STEAMBOAT LOUIS D'OR, tackle, apparel, and furniture. } No. 3,614.

To Heartt and Swain:

Take notice that you have been this day appointed apprais-
11 ers for the purpose of ascertaining the value of the property libelled in this case, and you are to file the report of your appraisement within the shortest possible delay.

By order of the court.

(Signed) F. B. VINOT, *D'y Clerk.*

New Orleans, July 25th, 1865.

Marshal's return.

Received July 25th, 1865, and same day, month, and year served a copy of the within notice on Heartt and Swain, appraisers, by leaving it at their office in the hands of their clerk.

July 26th, 1865.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

12 *Appraisers' report.—Filed July 26th, 1865.*

UNITED STATES
vs.
STEAMBOAT LOUIS D'OR, her tackle, apparel, and furniture. } No. 3,614.

To the honorable the circuit court for the eastern district of Louisiana:

We, the undersigned, appraisers to this honorable court, duly appointed and sworn, have the honor to report:

That on the twenty-sixth day of July, 1865, we proceeded on board of the steamboat Louis D'or for the purpose of ascertaining her value, and, after a careful and thorough examination, find that she is about five years old; built in Cincinnati 1860; she is 300 tons burden; and on a careful examination of the said boat, her boilers, engines, tackle, &c., we find the guards carried away and the furniture and apparel all taken off, and the cabin and roofs thereof in a very damaged condition.

We do therefore value and appraise the said boat at the sum of five thousand dollars ($5,000) cash, and no more.

Given under our hands this twenty-sixth day of July, 1865.

(Signed) H. G. HEARTT,
(Signed) RICH'D SWAIN,
U. S. Prize Appraisers, New Orleans.

13 *Release bond.*

UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

Know all men by these presents that we, Cheney Johnson, of , claimant and owner of the steamer Louis D'Or, her tackle, &c., as principal, and T. D. Hine, and H. H. Smith, as sureties, are held and firmly bound unto the United States, libellant, in the sum of seven thousand five hundred dollars, lawful money of the United States of America, for the payment whereof to the said United States, or assigns, we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Witness our respective names and seals hereunto affixed by us at New Orleans, this 26th day of July, one thousand eight hundred and sixty-five.

Whereas an admiralty warrant was lately issued out of the honorable the circuit court of the United States of America for the eastern district of Louisiana, at the suit of the United States *vs.* the steamer Louis D'Or, her tackle, apparel, and furniture, and numbered 3,614 on the docket of the said court, commanding the marshal to seize and take into his possession the steamer Louis D'Or, which has been seized accordingly, but has been released from said seizure and delivered to said C. Johnson, the claimant and owner thereof, by reason of the signing, sealing, and delivery of these presents, said Cheney Johnson having obtained leave of court to bond said prop-

erty, and filed a claim thereto, which is now of record in the clerk's office of this court:

Now the condition of the above obligation is such that if the said claimant and sureties abide by all the orders, interlocutory or final, of the court, and pay the said libellants the amount awarded by the final decree rendered in the court to which the process is returnable, or in any appellate court, then the foregoing obligation is to be void; but otherwise shall remain in full force and virtue.

(Signed) C. JOHNSON. [SEAL.]
(Signed) T. D. HINE. [SEAL.]
(Signed) H. H. SMITH. [SEAL.]

Signed, sealed, and delivered in the presence of—
(Signed) CHS. CLAIBORNE, *U. S. Com'ner.* [SEAL.]

5-cent int. rev. stamp affixed and cancelled.

14 Thomas D. Hine and Homer H. Smith, sureties on the within bond, being duly sworn, say that they reside in Franklin, parish of St. Mary, Louisiana, and are worth each the sum of three thousand seven hundred and fifty dollars over and above all their just debts and liabilities.

(Signed) T. D. HINE.
(Signed) H. H. SMITH.

Sworn to and subscribed before me, this 26th day of July, 1865.
[SEAL.] CHS. CLAIBORNE,
U. S. Com'ner.

5-ct. int. rev. stamp affixed and cancelled.

Filed July 26, 1866.

15 *Bond for costs.—Filed July 25th*, 1865.

UNITED STATES OF AMERICA,
Eastern District of Louisiana, ss, to wit:

Personally appearing before me, the undersigned, United States commissioner for the eastern district of Louisiana aforesaid, Cheney Johnson, as principal, and J. M. Johnson, as surety, do hereby acknowledge themselves, jointly and severally, to be indebted unto the United States in the full sum of two hundred and fifty dollars, lawful money of the United States, to be levied of their goods, chattels, lands, and tenements, the use of the said United States, and for the payment whereof they jointly and severally bind themselves, their heirs, executors, and administrators, firmly by these presents.

Whereas in the matter of the United States *vs.* the steamer Louis D'Or, No. 3,614 of the docket of the circuit court of the United States for the eastern district of Louisiana, a libel of information has been filed on behalf of the United States; this obligation to be null and void on condition that the said Cheney Johnson shall abide by the final decree rendered in the cause, and pay all such costs, ex-

penses, and damages as shall be awarded by the court upon the final decree, whether it is rendered in the original or appellate court; otherwise this obligation to remain in full force and virtue.

(Signed) C. JOHNSON. [L. S.]
(Signed) J. M. JOHNSON. [L. S.]

Signed and sealed at the city of New Orleans, this 25th day of July, 1865, in presence of—

(Signed) C. H. CLAIBORNE, [SEAL.]
U. S. Commissioner in and for the Eastern District of Louisiana.

16 Filed July 25th, 1865.

17 *Appraisers' bill*, ($50.)—*Filed July 26th*, 1865.

UNITED STATES PRIZE COMMISSIONER'S OFFICE,
Appraisers' Department, New Orleans, July 26th, 1865.

In the matter of the st'boat Louis D'Or, tackle, &c., and cargo, a prize, No. 3,614:

To appraisers' office, Dr.

For appraising st'boat Louis D'or, $5,000, at 1 p. ct..... $50

Writ of release.—Issued July 26th, 1865.

UNITED STATES CIRCUIT COURT,
Eastern District of Louisiana, ss:
CLERK'S OFFICE, *New Orleans, July 26th*, 1865.

UNITED STATES *vs.* STEAMER LOUIS D'OR, &c. } No. 3,614.

The President of the United States of America to the marshal of the eastern district of Louisiana, or his lawful deputy, greeting:

Whereas Cheney Johnson, claimant and owner of said
18 steamer, hath filed a claim thereto on behalf of himself, and obtained leave of court to bond the said steamer, and which said claim is now of record in this office—

You are hereby authorized to release the said steamer from seizure and her to restore to the possession and custody of said claimant on he having given bond conditioned as required by the order of court, &c., and make return hereon of your doings in the premises.

Witness Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at New Orleans, this 26th day of July, A. D. 1865, and the 90th year of the independence of the United States.

(Signed) F. B. VINOT, *D'y Clerk.* [SEAL.]

Marshal's return.

Received July 26th, 1865, and in obedience to the within writ released unto the claimant named herein the steamboat Louis D'Or, her

tackle, &c., by giving to said claimant an order to the U. S. marshal's keeper to deliver the said boat, and took from said claimant a receipt for said boat, which is now on file in the U. S. marshal's office.

New Orleans, July 26th, 1865.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

19 *Rule by claimant and order.—From the minutes of August 2d, 1865.*

UNITED STATES
vs.
THE STEAMER LOUIS D'OR. } No. 3,614.

On motion of Budd and Lambert, proctors for Cheney Johnson, claimant, and suggesting to the court that by order of this honorable court the said steamer has been bonded by said claimant, and is now in his possession. And on further suggesting that said steamer was and is in great want of repairs, painting, &c., &c.; that if the repairs, &c., are not immediately made, she will become totally worthless, and of no value to any person.

That in justice and equity, if claimant makes the necessary repairs on said boat, he ought not to be liable for more than her appraised value, in case of judgment confiscating said steamer, and further, that he ought not, in case of said condemnation, be required to deliver up said boat with the increase value of the repairs, as aforesaid, but should be permitted, in case of condemnation, to hold the boat free on paying her appraised value at the time of bonding. It is ordered that Rufus Waples, esq., U. S. district attorney, do show cause on the day of August, 1865, why an order and decree should not be entered permitting the said claimant, in case of condemnation, to pay the appraised value of said steamer at the time she was delivered to him, and why, on the payment of said sum into court, in case of condemnation, it should not operate as a re-
20 lease and an entire discharge of said boat. And service being accepted of the rule, and submitted to the court without any objection by the district attorney, it is ordered that the same be made absolute as prayed for.

Notice to take testimony.—Issued September 19th, 1866.

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR. } No. 3,614.

To Budd & Lambert, esqs.:

You are hereby notified that testimony will be taken in the above-entitled cause on Thursday, the 21st day of December, 1865, at the clerk's office of this court, at 10 o'clock a. m., on behalf of the libellant.

(Signed) F. B. VINOT, *D'y Clerk.*

New Orleans, Sept. 19th, 1865.

Marshal's return.—Sept'r 20th, 1865.

Received, September 20th, 1865, and on the same day, month, and year, served a copy of the within notice on Budd & Lambert, by giving it to Lambert personally, one of the said firm of Budd & Lambert, atty's named within.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

Sept. 20th, 1865.

21 *Testimony for libellants.—Filed Sept 21st*, 1865.

UNITED STATES
vs.
STR. LOUIS D'OR. } No. 3,614.

Testimony taken in persona of the district attorney and W. C. Budd, esq., before Charles Claiborne, U. S. commissioner.

George D. Hite, sworn for U. S., says: I am a resident of N. O.; have known the Louis D'Or for 5 or 6 years; since she was built. In 1861, '62, and '63, Cheney Johnson was her captain, and he is the only captain I ever knew that commanded her. In 1861 she went from New Orleans to Hurricane and Carolina Bluffs, Red river.

She was not in the conf. government employ in 1861 to my knowledge. She carried no commissary stores, or troops, &c., for the conf. in 1861. I saw her in '62, up to April, 1862. I was in the city of New Orleans. In '62 the Louis D'Or run from here to Vicksburg; this was of Febr'y 1862; Jph. D. Phelps was her captain.

I don't know that she carried troops to Vicksburg, or brought any to N. Orleans.

In 1862 I saw some 4 or 5 confederate officers on her as passengers. She brought no munitions of war from Vicksburg to N. Orleans, neither from N. O. to Vicksburg, in 1862, to my knowledge. It was not until 1863 that she carried commissary stores for the Confederate States, and she did so under orders. She carried
22 schlip schuck corn. This corn she carried either from Joe Boards's, of G. Robertson's plantation on Red river, below Shrevesport, to Alexandria, and to Fort de Russy, which was also on Red river, some 60 miles from Alexandria. She carried this corn under orders from confederate officers. I have seen this written order; Capt. Johnson showed it to me; saw the corn on board of her. The confederate force was at Alexandria when she landed the corn. The Louis D'Or left N. O. for Vicksburg 2 days before the city fell, and she had taken the place of the Magenta, which was a regular U. S. mail packet, under a contract with the government. I would call it a U. S. mail, because there was no confederate mail contract to my knowledge. The Louis D'Or was chartered by W. C. Wilson, captain of the Magenta.

Being asked whether the mail carried by the Louis D'Or to Vicksburg was not confederate mail matter, says it was, because the city was then under confederate authority. I don't know whether the

confederates had control over these mail matters or not; neither that the U. S. authorities had control over it or not.

Neither confederate or U. S. mail stamps were used at that time. Mr. Riddle, the postmaster, had used his own stamps; this was before the city fell.

In 1863 I saw confederate soldiers on board the Louis D'Or going from Lacroix ferry to the Upper Texas.

I was then running as captain of a boat, and had been compelled, likewise, to comply with General Taylor's orders to carry
23 troops. It was the usual practice to issue orders for each trip. I saw but one order to Captain Johnson.

I know of but one trip of the Louis D'Or where she carried corn.

The Louis D'Or did not bring anything at all on her return from Tensas to Shreveport, on the Red river; she came light.

All I know of the boats being under orders is the written order I saw. Captain Johnson was on board all the time. Don't know what compensation Captain Johnson received for his services. Don't know he received any. He came to this city in June last, I think.

Never saw any cavalry horses on board; they were all infantry troops.

Captain Johnson was knowing of the use of the boat.

There were many other boats up on the Red river at that time, usually running in the Red river, what is called the New Orleans and Red river trade. Had the captain of one of these boats refused to run under the orders, the confederate authorities would have taken possession of the boats, and run them with their own men, and they would have put the captain on shore in a minute. (I know of three instances where the captains were put ashore and the boats taken possession of by the conf., because they refuse to obey their orders.)

(District att'y objects to the last answer as irrelevant.)

I think one of the captains was imprisoned for not obeying orders.

(Same objection as above.)

Captain Cheney Johnson, before the fall of N. O., resided
24 at Franklin, Louisiana, and was not a resident of New Orleans; after the fall of New Orleans he resided at Alexandria; never resided in New Orleans.

The last trip she made from Vicksburg she run in the Red river, and was then in command of Captain Phelps. When in Red river the Louis D'Or was delivered to one of Capt. Johnson's pilots, William Smith, who was authorized to receive her; the delivery took place at Alexandria.

None of the captains of any of the boats had any power to resist the orders of the military authorities.

I don't know that Captain Johnson ever received any remuneration for these trips. I myself never received a dollar for my trips. I received certified acc'ts, but no money.

(Dist. att'y objects to all of these answers.)

I know the Louis D'Or ever since she was built. She used to run

to Hurricane and Carolinas' Bluffs from New Orleans, touching at all intermediate landings, as is customary.

(Counsel for claimants interrogates the witness in regard to other boats, which was objected to by the district att'y, and his objection sustained by the commissioner, to which ruling the counsel for the claimants reserved his exception.)

I reside in New Orleans, where I am engaged in business at No. 15 Comm'l Place, commission merchants and steamboat agents.

(Signed) GEO. D. HITE.

Sworn to and subscribed before me, this 21st September, 1865.

(Signed) CHARS. CLAIBORNE,
U. S. Commissioner.

25 J. Szymanski, sworn for U. S., says: I was formerly a major in the confederate service, agent for the exchange of prisoners; reside now in the city. I know the Louis D'Or; she was in the confederate service carrying prisoners of war; in 1863, in the month of February, when she brought prisoners from Vicksburg to New Orleans, I was on board of her as far as Baton Rouge only; she was in charge of Major N. I. Watts. I desire to correct an error in the date of the trip; it was in the fall of 1862, and not in 1863 that she was bringing prisoners to New Orleans; the prisoners were delivered to Gen'l Butler, at Carrolton; Major Watts was the agent of the exchange of prisoners this side of the river, headquarters at Vicksburg; I was the agent on the other side; Capt. Johnson was on board the Louis D'Or at the time; Captain Johnson had his wife and children on board at the time, and he was compelled to land them against his will, for which he was angry; the reason why he was compelled to land his family was because no one is allowed to be on board a flag of truce boat except those that are on the list.

I saw the Louis D'Or at Alexandria, where she was taken to take confederate troops up for the quartermaster; saw grey uniforms on board; after that she was laid up.

Cross-ex.:

Had the Louis D'Or refused to comply with the orders she would have been treated as others have been, taken by force.

26 It was understood by Gen'l Butler and the confederate authorities that these troops, some 138 in all, should be brought to New Orleans, but it referred to no particular boat.

This was the most convenient way to bring the troops here; the other way was by the lakes and railroads, and it would have required vessels and schooners also, or march them down to Vicksburg.

Re-ex.:

The troops could have been brought to Pontchatoula by railroad, and then from Pontchatoula by water to N. O.

(Signed) IG. SZYMANSKI.

Sworn to and subscribed before me, this 21 September, 1865.

(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

F. V. Cellos, sworn for U. S., says: I reside in this city; born and raised here; know the Louis D'Or. This boat has been in the employ of the conf. authorities; in 1864 the Louis D'Or had orders from the conf. government; she was turned over by the Q. M. department to the commissary depart., to carry corn from below Shreveport to the neighborhood of Alexandria; she made from 3 to 5 trips; this corn was for the use of conf. troops; I was in Q. M. department myself; I saw some few confederate wagons there; the corn was landed at Calhoun's landing; the confederate troops were some 40 miles from that landing; don't know what compensation the boat received;
27 this is the only time that I know positively that the Louis D'Or was in the conf. employ; Capt. Johnson was in command then of the boat; she returned light.

Cross-ex.:

The trips alluded to were made under orders from the conf. authorities; witness himself copied the orders; the orders were imperative; had the captain refused to obey these orders the conf. would have taken charge of the boat and put the captain ashore, and officered the boat themselves, as they have done in several instances.

Re-direct:

I do not know if Capt. Johnson refused to obey orders; to my knowledge he made no objections.

Cross-examination resumed:

If he had made objections or refused to obey orders, the boat would have been taken by the authorities and he would have had no redress.

The boat was laid up for some time in very bad condition.

She was laid up previous to the taking of this corn, and when so laid up, the orders were issued.

Re-direct resumed:

After she was laid up, she was brought out by Capt'n Johnson.

I do not know with certainty whether she was laid up at the time the orders were issued, but she was so laid up previous to the
28 issuing of the orders, that I know.

The orders were as follows:

The steamer Louis D'Or will report to Major Mason to transport corn to this place or wherever he may direct.

The above is the substance of the orders.

(Signed) FER'D V. CELLOS.

Sworn to and subscribed before me, this 21 Sept., 1865.

(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

John C. Marsh, a witness for libellants, duly sworn, deposes and says: I have resided in the city of New Orleans since the year 1834; I know the steamboat Louis D'Or; she was in the confederate employ

in 1862; the first I saw of her in 1862, she came down under a flag of truce; I saw her pass; I was on the Cost; the next time I saw her in the same year in the town of Alexandria; she arrived light; she took the contents of my machine shop to Shreveport by order of the engineer department; she had sugar on board, private I believe; some confederate commissary stores, clothing; she had also some officers and soldiers of the confederate army; she took them from Alexandria to Shreveport; I do not know whether or not she took the commissary stores and officers and soldiers on board by orders of the confederate government, but I know that my tools were taken
29 on board by order of the confederate authorities.

After we arrived at Shreveport she left, and I only saw her again in 1863.

Captain Johnson was on board as her captain at the time she took on board the tools, the commissary stores, &c., as mentioned above.

The next time I saw her she was on Red river; she had corn on board, going down the river; I do not know whether or not this corn was for the army.

There were on board a few confederate soldiers; this was in 1863.

I do not know whether she was acting under orders or not during this trip.

The next time I saw her land at Shreveport and laid up light; this was the last time I saw her.

Captain Johnson was on board of her when she was coming down the river with corn and a few troops.

Cross-examined:

If the captain had refused to take my tools on board, I would have seen General Taylor, to have the order carried out; he would have taken the boat immediately.

The order was imperative; when I saw the Louis D'Or coming down under a flag of truce, it was in the fall of 1862; it was after General Butler took the city; that trip was the only one she made under a flag of truce.

I am not certain that the trip made under a flag of truce was
30 in the fall of 1862; it was after the city was taken by the United States forces.

(Signed) JNO. C. MARSH.

Sworn to and subscribed before me, this 21st Sept., 1865.

(Signed) CH'S. CLAIBORNE,
U. S. Commissioner.

Testimony for libellants.—Filed Sept'r 22d, 1865.

UNITED STATES
vs.
STEAMER LOUIS D'OR. } No. 3,614.

Present: District att'y, for libellants;
Do. W. C. Budd, esq., for claimant.

Testimony taken on the 22d September, 1865, before Ch's Claiborne, U. S. commissioner:

W. W. Withenbury, a witness for libellants, duly sworn, deposes and says:

I reside in Cincinnati, Ohio; I have been in the steamboat business for the last twenty-five years, on the Mississippi and its tributaries. I know the steamboat Louis D'Or; she was in the employ of the confederate government in 1862. She carried sugar for the confederate government from some point on the Mississippi river to Vicksburg; this was in the summer and fall of 1862. She was again employed in carrying corn in the winter of 1863, and up to the time Ad-
31 miral Farragut's fleet passed Port Hudson. The corn belonged to the confederate government. She was at Port Hudson at the time the fleet attacked the place, and left partly unloaded and returned to Red river; I met her there. I mean she was at Port Hudson when the fleet started to pass, and left for Red river when the firing began. I refer to the time when portion of the U. S. fleet actually passed, when the Mississippi was burned and the Richmond disabled. In the early part of the war, in the spring of 1861, the Louis D'Or transported confederate troops from Shrevesport to New Orleans. Cheney Johnson was captain of the boat and on board of her.

Cross-examined:

I was on board of the Horner; Captain Cheney Johnson told me that the confederate authorities had compelled him to take government sugar on board instead of private sugar. This was my only source of information, and also that I saw the sugar marked C. S. A.

(District attorney objects to the statements of the claimant as inadmissible.)

I know the troops were confederate troops, because there were none other here at the time. I was not at Shrevesport at the time, and know not whether Captain Johnson took the troops on board of his own accord or whether he was compelled so to do. This was in 1861, in April and May. I would have brought the troops
32 down myself if I had reached Shrevesport. I would have been required to bring them down, but my boat sunk in sight of Captain Johnson's, which placed him in the position which I would have been in. The boat I then commanded was the Lecompte. She sunk. I then took command of the Horner. I know that the Louis D'Or was at Port Hudson when the U. S. fleet passed the place, from the statement of Captain Johnson to me.

Did you perform any service in carrying any ammunition, troops, &c., for the confederate government during the war?

(District attorney objects to the question as irrelevant.)

Objection sustained by U. S. commissioner. Claimant excepts to the ruling of the commissioner.

Did you act under any orders of the confederate authorities?

Same objection from the district attorney.

Similar ruling on part of commissioner.

Same exception taken on the ruling by claimant's attorney.

If orders had been issued from the confederate authorities to the Louis D'Or, if the captain had not obeyed them, what would have been the consequence?

(Objected to by the district attorney, because there is no evidence of any orders having been issued to the Louis D'Or. Objection overruled, and exception to ruling by the district attorney.)

33. The captain would have been put off, and the boat put under the command of another captain, and the boat made to perform the service required.

The Louis D'Or was laid up for a considerable time. The Louis D'Or was built for the Red river trade, and was running in it at the time of secession. Her regular trade extended to the foot of Red river raft, 60 miles above Shrevesport, and stopping at all intermediate landings between New Orleans and that point. The Louis D'Or was never called by any other name.

Re-direct:

I stated in my examination-in-chief that in 1861 I would have been required to bring the confederate troops down from Shrevesport to New Orleans if my boat had not sunk and I had reached the place first. I know it only from the course usually pursued by the confederate authorities. They usually took the first boat to transport the troops, when the same were ready for transportation, and this the more particularly in the early part of the rebellion. I do not know whether or not Captain Johnson took the troops on board under compulsion or voluntarily. I do not think there was, in 1861, a regularly organized military department at Shrevesport. Volunteers were being raised there as over the whole country.

(Signed) W. W. WITHENBURY.

34. Sworn to and subscribed before me, this 22d day of September, 1865.

(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

Notice to take testimony.—Issued November 25th, 1865.

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
STEAMER LOUIS D'OR. } No. 3,614.

To Budd and Lambert, esq'rs:

You are hereby notified that testimony will be taken in the above-entitled cause on Wednesday, the 29th day of November, 1865, at the clerk's office of this court, at 2 o'clock p. m., on behalf of libellants.

(Signed) F. B. VINOT, *D'y Clerk.*

New Orleans, November 25th, 1865.

Marshal's return.

Received November 25th, 1865, and the same day, month, and year served a copy of the within notice on Budd and Lambert, esq'rs, at their office in the hands of Lambert, esq., one of said firm.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

November 27th, 1865.

35 *Testimony for claimants.—Filed December 2d, 1865.*

UNITED STATES
vs.
THE STEAMER LOUIS D'OR, &c. } No. 3,614.

Present: District attorney for libellants; Budd and Lambert for claimants.

Testimony taken before Charles Claiborne, U. S. commissioner, at his office, on the 2d day of December, 1865, at 3 o'clock p. m.

William C. Smith, a witness for claimant, being duly sworn, deposes and says:

I know Captain Cheney Johnson; I have known him for about 20 years. His occupation has generally been steamboating; part of that time planting. He is a man of family; he resides in the town of Franklin, in St. Mary's parish; he has lived there ever since I first knew him. I know the steamboat Louis D'Or; she was built in Cincinnati in the summer of 1860, I believe; she was built for Cheney Johnson; he acted as captain on board.

Captain Johnson commanded before the steamboat Lecompte; he built her and owned her himself; he commanded her four seasons.

The Louis D'Or was built for the Red river trade, touching at all the intermediate landings between New Orleans and Shreves-
36 port. The Lecompte was built for the Bayou Teche trade; but, drawing too much water, she was transferred to the Red river trade. Captain Johnson, previous to taking the command of the Louis D'Or, has been running for four seasons in the Red river trade.

I am a pilot by profession; I have been piloting about 22 years; I acted as pilot on board of the Louis D'Or; I went on her as such on her first trip in the fall, I think, of 1860. She run to Red river; she made two trips from the Attakapas country to Shrevesport in 1862; she also went to Memphis in the winter of 1861 and 1862; I am not certain as to the correctness of the dates; I think, however, that they are correct. I know that the Louis D'Or, on several occasions, was impressed into service by the military confederate authorities; I was impressed with her myself. On every occasion there was on board of her a military confederate officer; he had full charge of the boat, and made her go where he choose. She never made, to my knowledge, any trip for the confederate government without having on board a confederate officer, and under orders. If she had I would

have known it. If the captain had refused, he would have been put on the bank, and some one else put in charge of the boat, and the boat taken from him. Captain Johnson, having refused to obey an order in relation to freight, was put ashore on one occasion for half a day. He was prohibited from putting on board any individual freight either for himself or for other parties on all occa-
37 sions when he was carrying freight for the confederate government. Captain Johnson's family was on board on some of those trips. On two different occasions he had to put his family ashore, the boat having been ordered by military authority to dangerous positions, where he thought it not safe to trust his family. One of those occasions was when he was ordered to the city under a flag of truce. She was ordered here on that occasion by Major Watts, a rebel exchange officer of Vicksburg. General Butler was in command here, and the exchange of prisoners was recognized by him. Captain Davis was the federal officer who met the boat about 8 miles above the city. The prisoners of Union army were delivered to the federal authorities; we received none in exchange. Major Watts it was who refused to permit Captain Johnson's family to go down with the boat. They were put ashore at Hog Point, and remained there till the boat returned, about 200 miles from the city.

On that trip there were on board confederate soldiers guarding the prisoners; they were from thirty to fifty in number. The boat was not permitted to touch the shore; she was kept in the stream. No communications were allowed with the shore. No one on board could have left the boat for shore. She had a boat with her at the time; it was the gunboat No. 7—a federal gunboat. She conveyed us down and back again.

38 When the order was given to Captain Johnson to put his family on shore, he was unwilling to do so; he was compelled to do it by Major Watts's orders.

There was in that part of the confederacy at that time no power of resisting the military authorities. We had no law there at that time but the military rule. I cannot say that Captain Johnson ever voluntary made a single trip for the confederate authorities.

I never knew of the vessel having made a single trip without positive orders. The Louis D'Or I left in 1863, and know nothing about her after that time. She was, when I left her, on Red river, laying up at Alexandria between the falls. The last time I saw her was on the first of October, 1863.

I cannot say but I think that Captain Johnson would have been permitted to move his boat if he had so desired, but I don't know. There was no water in the river to allow her, at that time, to be moved.

Captain Johnson would not have been permitted to bring his boat within the federal lines if he had attempted it; in all probability he would have been hung, and his boat burned. Fort De Russy is on Red river, about 80 miles from its mouth. Alexandria is about 65 miles above the fort.

I have seen the Louis D'Or since she has been bonded by the

claimant. She is the same boat that I have mentioned as having been built in 1860. When she came down the first trip, she bore the name she now bears; she has never borne any other. I
39 am now pilot on board of the Sonora; she leaves this evening at five o'clock. I am in no way connected with Captain Johnson; I am not in his employ. He does not own the Sonora; she runs in the Red river trade.

Cross-examined:

The Louis D'Or, at the time of the fall of New Orleans, was either in Franklin, or on her way there from Vicksburg.

The Louis D'Or, about the time of the fall of the city, was running between New Orleans and Vicksburg. I do not know where she went when she left Vicksburg on that occasion. I saw her first at Franklin; I was not on board of her on the trip referred to above; I do not know whether, on that trip, she was running under military orders. The Louis D'Or was occasionally in the confederate service up to the time she laid up at Alexandria. She was not continually employed, I mean, by impressment; that she was ordered to do so and so by the military authorities. The orders were in writing, I suppose. I think I have seen some of them. I heard many verbal orders given by the military officers.

I do not know of my personal knowledge that she made every one of her trips under orders of the military authorities. I got my information, in some instances, from the captain of the boats. She carried sugar; sometimes troops, confederate commissary and quartermaster's stores and ammunition, and arms with the troops.
40 I was at Alexandria after the 4th of October, 1863.

I know that Captain Johnson could not have come down into his boat to the city without running the chance of being hung and having his boat burned, because I know that I wished myself to come to the city, and could not come down without running the risk of my life; and that is why I believe Captain Johnson could not.

The difficulty arose between Captain Johnson and the military officers, when he was put ashore, on account of some of his own sugar that he had taken on the boat. The difficulty arose because he had taken on board his own sugar, and brought it to Vicksburg.

The business of the confederate officers on board was to have full charge of the boat, and order her to go where they choose. They had charge of the confederate freight on board. Captain Johnson commanded the boat, and performed his duties as such, as he usually did before.

Question. Was Captain Johnson an enemy to the government of the confederacy, or was he a friend of that government?

(Objected to by claimant's att'y on the grounds of irrelevancy and not pertinent to the issue.)

Answer. I cannot answer that question. I do not know Captain Johnson's feelings on that subject. He was friendly with the confederate officers of his acquaintance. I cannot say that I have
41 heard Capt. Johnson express his sentiments with regard to the success or non-success of the rebellion.

Question. Did you ever hear Captain Johnson express a wish or desire for the success of the southern confederacy or defeat of the Federal armies.

Answer. No; not positively.

Re-direct:

I know that on the trip I mentioned, at the time of the fall of New Orleans, the Louis D'Or was chartered to Messrs. Wilson & Holmes.

Cross-examination resumed:

I did not see the charter, but I know she was run by Wilson and Holmes.

(Signed) WM. C. SMITH.

Sworn to and subscribed before me, this 2d day of December, 1865.

(Signed) CHS. CLAIBORNE,
U. S. Commissioner.

Note of evidence.—Filed December 4th, 1865.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR. } No. 3,614.

Defendant offered in evidence Doct. A, and testimony for claimants, filed December 2d, 1865,

42 District attorney offered in evidence monition and marshal's return, and testimony for libellants, filed September 21 and 22, 1865.

B. H. Mason, Sherry R. Sanders, E. Conery, J. W. Cannon sworn for defendant.

Document A.—Offered in evidence by claimant, and filed December 4th, 1865.

Oath of allegiance of C. Johnson, No. 645:

I do solemnly swear or affirm, in the presence of Almighty God, that I will henceforth faithfully defend the Constitution of the United States, and the Union of States thereunder, and that I will in like manner abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves, so help me God.

(Signed) C. JOHNSON.

Sworn to and subscribed before me, this 22d day of June, A. D. 1865.

(Signed) CHS. CLAIBORNE, [SEAL.]
Clerk U. S. Circuit Court, 6th Judicial Circuit, and Eastern District of Louisiana.

5-cent. int. rev. stamp affixed and cancelled.

43 Testimony for claimants, filed December 2d, 1865, and offered in evidence by claimant, will be found at page 35 of this transcript.

The monition and marshal's return, offered in evidence by the district attorney, are to be found at pages 5 of this transcript.

The testimony for libellants, filed September 21 and 22d, 1865, and offered in evidence by the district attorney, are to be found at page 21 of this transcript.

Order continuance.—From the minutes of December 4, 1865.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR, &c. } No. 3,614.

This cause was called for trial, district attorney for libellants; W. C. Budd, esq., for claimant; when, after hearing pleadings and evidence, the cause is continued for argument till Monday next, 11th instant, at 11 a. m.

Order continuance.—From minutes of December 11th, 1865.

44 UNITED STATES
vs.
THE STEAMER LOUIS D'OR, &c. } No. 3,614.

By consent this cause is continued for argument until Monday next at 11 o'clock a. m.

Order continuance.—From the minutes of Dec'b'r 18th, '865.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR, &c. } No. 3,614.

For want of time, ordered that this case be continued till Wednesday next at 11 a. m.

Order continuance.—From the minutes of Dec'b'r 20th, '866.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR, &c. } No. 3,614.

For want of time, ordered that this cause be continued, and fixed again by preference.

45 *Order continuance.—From the minutes of Jan'y 19th,* 1866.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR, &c. } No. 3,614.

On motion of the district attorney, ordered that this cause be continued till Monday next, 22d instant, at 11 a. m., and that defendant's counsel be notified thereof.

Notice of trial.

Circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR, &c. } No. 3,614.

You are hereby notified that this case is continued for trial for Monday, the 22d day of January, 1866, A. D., at 11 o'clock a. m., by order of court.

Witness my hand and seal of said court at New Orleans, this 19th day of January, A. D. 1866.

(Signed) CHARLES CLAIBORNE, *Clerk.* [SEAL.]
By F. B. VINOT, *Dep'y Clerk.*

To BUDD & LAMBERT, Esqrs.

46 *Marshal's return.*

Received January 20th, 1866, and same day, month, and year served a copy of the within notice on Budd & Lambert, esqrs., the attorneys named within at their office in the hands of Lambert, esq., one of said firm.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

Jan'y 22d, 1866.

Order continuance.—From the minutes of January 22d, 1866.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR, &c. } No. 3,614.

On motion of the district attorney, ordered that this cause be continued by preference till Monday next, 29th instant, at 11 a. m., and that defendant's counsel be notified thereof.

Notice of trial.

Circuit court of the United States for the sixth circuit and eastern district of Louisiana.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR, &c. } No. 3,614.

47 You are hereby notified that this case is continued with preference for trial, for Monday the 29th day of January, 1866, A. D., at 11 o'clock a. m.

By order of court.

Witness my hand and seal of said court, at New Orleans, this 22d day of January, A. D. 1866.

(Signed) CHAS CLAIBORNE, *Clerk,* [SEAL.]
By F. B. VINOT, *Dy. Clerk.*

To BUDD & LAMBERT, Esqrs.

Marshal's return.

Received January 23d, 1866, and on the 24th day of the same month and year, served a copy of the within notice on the att'ys named herein, by leaving it in the hands of Budd, esq., one of said attorneys.

(Signed) M. EGAN,
Dy. U. S. Marshal.

New Orleans, January 24, 1866.

Submission of cause.—From the minutes of Jan'y 29, 1866.

UNITED STATES
vs.
STEAMER LOUIS D'OR, etc. } No. 3,614.

48 This cause came up again, district attorney for libellants, W. C. Budd, esq., for claimant. When after hearing counsel the court took time to advise.

Decree of condemnation—From the minutes of Feb'y 19th, 1866.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR, &c. } No. 3,614.

The law and the evidence considered, and for reasons orally assigned, in the case of the United States *vs.* the steamer Capitol, No. 3,610 of the docket, ordered, adjudged and decreed, that the steamer Louis D'Or, her tackle, apparel and furniture, be, and the same are hereby, condemned as forfeited to the United States.

And the said steamer having been released from seizure, and delivered to the claimant upon the execution of a bond conditioned as the law directs—

It is further adjudged and decreed that Cheney Johnson, a principal, and T. D. Hine and H. H. Smith, as sureties on the bond, be condemned in solido to pay the United States the sum of five thousand dollars, the appraised value of said steamer, with five per
49 centum per annum interest from 26th July, 1865, till paid, and costs of suit.

Judgment rendered 19th February, 19th, 1866.
Judgment signed 24th February, 1866.

(Signed) E. H. DURELL, *Judge*.

Intervention of Rufus Waples.—Filed February 23d, 1866.

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR,
tackle, apparel, &c. } No. 3,614.

The petition of intervention of Rufus Waples respectfully represents:

That he issued the order of seizure, drew and filed the libel, and

performed all the duties, and assumed all the responsibilities of attorney for the United States in the above-entitled case, from the institution of the action till the 30th October, 1865, as will fully appear from the record of the case.

That for these services he is entitled to receive their value, which he alleges to be one hundred dollars.

Wherefore he prays that the court will allow him one hundred dollars, or such other sum as the court in its discretion may grant, and that it be paid from the sum of $5,000 realized by the libellants in said suit, as the result of the judgment rendered in his favor,
50 and as in duty bound, &c.

(Signed) RUFUS WAPLES.

Order.

Let this petition of intervention be filed.
February 23d, 1866.

(Signed) E. H. DURELL, *Judge*.

Motion and order fixing tridl of intervention.—From the minutes of Feb'y 27th, 1866.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR, &c. } No. 3,614.

On motion of Rufus Waples, ordered that his intervention filed in this case be fixed for trial for Thursday next, 1st March, 1866, at 11 a. m., and that all parties interested be notified thereof.

Notice of trial.—Issued Feb'y 27th, 1866.

Circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana.

51 UNITED STATES
vs.
THE STEAMER LOUIS D'OR, &c. } No. 3,614.

You are hereby notified that the intervention of Rufus Waples, filed in this case, is assigned for trial for Thursday, the 1st day of March, 1866, A. D., at 11 o'clock a. m.

By order of court.

Witness my hand and seal of the said court, at New Orleans, this 27th day of February, A. D. 1866.

(Signed) F. B. VINOT, *Dy. Clerk*. [SEAL]

To J. K. GOODLOE, Esqr., *U. S. Att'y*.

Marshal's return.

Received February 28th, 1866, and on the same day, month, and year, served a copy of the within notice on J. K. Goodloe, esq., U.

S. att'y, personally, at his office in the custom-house building in this city.

(Signed) J. J. PREIS,
Dy. U. S. Marshal.

Feb'y 28th, 1866.

Notice of trial of intervention.—Issued Feb'y 27th, 1866.

Circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana.

52 UNITED STATES
vs.
THE STEAMER LOUIS D'OR, etc. } No. 3,614.

You are hereby notified that the intervention of Rufus Waples, filed in this case, is assigned for trial for Thursday, the 1st day of March, 1866, A. D., at 11 o'clock a. m.

By order of court.

Witness my hand and seal of the said court, at New Orleans, this 27th day of March, A. D. 1866.

(Signed) F. B. VINOT, *Dy. Clerk.* [SEAL.]

To BUDD & LAMBERT, Esqrs.

Marshal's return.

Received February 28th, 1866, a copy of the within notice, served on Budd & Lambert, esqrs., on the same day, month, and year, at their office, in the hands of Lambert, esq., one of said firm.

(Signed) M. EGAN,
Dy. U. S. Marshal.

New Orleans, February 28th, 1866.

Answer of U. S. attorney.—Filed February 28th, 1866.

U. S. circuit court.

Answer of United States.

UNITED STATES OF AMERICA
vs.
THE STEAMER LOUIS D'OR.

53 And now come the plaintiffs, the United States of America, by John K. Goodloe, their authorized attorney, and for answer to the intervention and claim of Rufus Waples, esq., therein set forth, say:

That the libel in this case was filed July 8, 1865, under act Aug. 6, 1861, prior to which date said Rufus Waples had been superseded as U. S. district attorney for the eastern district of Louisiana; and that any claim for services rendered for the United States subsequent to the time that he ceased to be such attorney, should be presented for allowance and payment by the proper officers of the government at

Washington city, and cannot be settled or allowed by this court in this proceeding, and before an application and refusal to allow for the same by said proper authorities; moreover said Waples has received and now holds the sum of $34,496 received by him as fees, which sum is far above the value of any and all services he may have rendered to and for said United States to said United States, and which he owes.

2d. If said plaintiffs are incorrect in supposing that said Waples was not U. S. district attorney as aforesaid, for said eastern district of Louisiana, at the time of rendering the service intervened for in this case, then plaintiffs answer and say that the compensation of said district attorney is fixed by law and cannot exceed $ per annum, and in proportion thereto for the time he was such district attorney; and that the amount already received by him, the said Waples,
54 whilst discharging the duties of such district attorney from 1st January, 1865, to 30th October, 1865, far exceeds the maximum compensation to which he is entitled by law; all of which he, the said Waples, retains in his hands, and has not paid over to the government as he is bound to do by law.

3d. Said plaintiffs, further answering, say that this suit was prosecuted to judgment by John K. Goodloe, United States district attorney; that there is no fee bill allowed by law for services in this and like cases, but the compensation is wholly dependent upon a successful prosecution of the case and the discretion of the judge of the court, and is to be allowed to the officers of the court.

4th. Said plaintiffs, further answering, say that the office of United States district attorney is held at the will of the President, or appointing power; that he is at all times subject to removal by said power, and is allowed to enjoy the emoluments of said office only during the time he may remain in and hold said office according to law; and that when the judgment in this case was rendered the said Waples had ceased to be district attorney of the United States for the eastern district of Louisiana.

Wherefore plaintiffs deny that said Waples, intervenor as aforesaid, is entitled to be allowed and paid one hundred dollars, or any other sum, for services mentioned in his said intervention; and they pray that his intervention be disallowed and dismissed with cost, and for all general relief.

(Signed) JOHN K. GOODLOE, *U. S. Att'y.*

55 *Exception of Rufus Waples.—Filed March 1st,* 1866.

United States circuit court, eastern district of Louisiana.

UNITED STATES OF AMERICA *vs.* THE STEAMBOAT LOUIS D'OR, &c. } No. 3,614.—Rufus Waples, intervenor.

The exception of Rufus Waples, intervenor herein, to the answer filed herein to his petition of intervention in the above-entitled case, the United States of America *vs.* the steamboat Louis D'Or, her tackle, &c., respectfully shows:

That the 1st and 4th sections of said answer are inconsistent with 2d and 3d sections; and that this variance renders the answer vague, uncertain, and evasive.

That all after the word "Louisiana" in the first section, and all after the words "was such dist. att'y" in the 2d section of the answer are irrelevant.

Wherefore he prays that the United States, represented by John K. Goodloe, esq., district attorney, be ordered by the court to elect between the two inconsistent positions.

And he further prays that the alleged irrevelant matter be stricken from the answer, and for general relief.

(Signed) RUFUS WAPLES.
(Signed) L. MADISON DAY, *of Counsel.*

56 *Motion and order for suspensive appeal.—From the minutes of March 1st*, 1866.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR, &c. } No. 3,614.

On motion of W. C. Budd, of the late firm of Budd & Lambert, of counsel, and attorneys of Cheney Johnson, T. D. Hine, and H. H. Smith, against whom, as principal and securities on the bond given in this case to release the steamer Louis D'Or, final judgment has been rendered herein for the sum of five thousand dollars and interest, on the 19th of February, 1866, and signed on the 24th of same month; and on showing to the court that movers are informed and believe that there is error to their prejudice in said decree, and that they desire to take a suspensive appeal therefrom—

It is, therefore, now ordered that a suspensive appeal to stay execution be granted to the said Cheney Johnson, J. D. Hine, and H. H. Smith, on their giving bond and security in the sum of eight thousand dollars, conditioned as the law directs, and on compliance with all the requisites of the law. That said appeal be made returnable at the next term of the Supreme Court, at Washington, to wit, on first Monday of December next, and that John K. Goodloe, esqr., attorney of the United States for this district, be duly notified and cited to appear and answer to this appeal.

57 *Order fixing trial of exception.—From the minutes of March 1st*, 1866.

THE UNITED STATES
vs.
STEAMER LOUIS D'OR, &c. } No. 3,614.

By consent, the exception herein filed of Rufus Waples to the answer of the U. S. attorney, is fixed for trial for Saturday, 3d instant, at 11 a. m.

Hearing of exception.—From the minutes of March 3d, 1865.

UNITED STATES
vs.
ST'R LOUIS D'OR. } No. 3,614.

The exception of Rufus Waples to the answer of the U. S. att'y came up for hearing. L. Madison Day for Rufus Waples; John K. Goodloe, esq., U. S. att'y, for libellants. And after hearing argument of counsel the court took time to advise.

Motion and order as to surety on appeal bond.—From the minutes March 5th, 1866.

UNITED STATES
vs.
THE STEAMER LOUIS D'OR, &c. } No. 3,614.

58 James J. Atkinson, the proposed surety on the appeal bond, was this day examined in open court, and was accepted after giving satisfactory proof of his solvency.

59 KNOW all men by these presents, that we, Cheney Johnson, by his att'y, W. C. Budd, Thomas D. Hine, and Homer H. Smith as principals, and John Joseph Atkinson as surety, are held and firmly bound, jointly and severally, unto the United States of America in the sum of eight thousand dollars, lawful money of the United States of America, to be paid to the said United States of America or assigns, for which payment, well and truly to be made, we bind ourselves, and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated the 5th day of March, in the year of our Lord eighteen hundred and sixty-six.

Whereas Cheney Johnson, Thomas D. Hine, and Homer H. Smith have this day presented a petition to the honorable the circuit court of the United States for the sixth circuit, holding sessions in and for the eastern district of Louisiana, praying for a suspensive appeal to stay execution in the case of the United States *vs.* the steamer Louis D'Or, &c., No 3,614 of the docket of said court:

Now the condition of the above obligation is, that we, the above bounden Cheney Johnson, Thomas D. Hine, and Homer H. Smith shall prosecute their appeal, and shall satisfy whatever judgment may be rendered against them, or that the same shall be satisfied by the proceeds of their estate, real and personal, if they be cast in the appeal, otherwise that said surety shall be liable in their place.

(Signed) CHENEY JOHNSON, [L. S.]
Pr W. C. BUDD, *Att'y.*
(Signed) T. D. HINE. [L. S.]
(Signed) HOMER H. SMITH. [L. S.]
(Signed) J. J. ATKINSON. [L. S.]

Signed, sealed, and delivered in the presence of—
(Signed) F. B. VINOT.

60 Filed March 5th 1866.

CH'S CLAIBORNE, *Clerk*.
By F. B. VINOT, *D'y Clerk*.

25-c. internal revenue stamp affixed and cancelled.

61 *Claim of informer.—Filed March* 8, 1866.

U. S. circuit court, east. dist. of La.

THE UNITED STATES OF AMERICA
vs.
THE STEAMBOAT LOUIS D'OR, her tackle, apparel, and furniture. } No. 3,614.

The petition of Charles Black, sr., who is of record herein as informant in the above-entitled suit, respectfully represents that, in accordance with sec. 3d of the act of Congress, entitled "An act to confiscate property used for insurrectionary purposes," approved Aug. 6th, 1861, he filed with the district attorney his written information upon which the said steamboat, Louis D'Or, was seized, libelled, and condemned.

Wherefore he prays that the proceeds of the said steamboat be divided between himself and the United States in equal parts, as provided by the said statute.

(Signed) WAPLES & KELLOGG,
Proctors for Petitioner.

Order overruling exception.—From minutes March 8, 1866.

UNITED STATES
vs.
THE ST'R LOUIS D'OR, &c.

Ordered that the exception of Rufus Wapples to the answer of John K. Goodloe, esqr., U. S. attorney, be overruled.

62 United States of America, circuit court of the United States, sixth circuit and eastern district of Louisiana.

CLERK'S OFFICE.

I, Charles Claiborne, clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, do hereby certify that the foregoing 61 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of the United States *vs.* the steamer Louis D'Or, her tackle, apparel, &c., No. 3,614 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 24th day of March, A. D. 1866.

[SEAL.] CH'S CLAIBORNE, *Clerk*.
[5-ct. stamp, cancelled.]

I, Edward H. Durell, United States judge for the eastern district of Louisiana, do hereby certify that Charles Claiborne, whose name is signed to the above certificate as clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal, at the city of New Orleans, in said district, this 24 day of March, A. D. 1866.

[SEAL.] E. H. DURELL, *Judge.*

[5-cent stamp, cancelled.]

63 THE UNITED STATES OF AMERICA,
Eastern District of Louisiana:

The President of the United States to John K. Goodloe, esq., attorney of the United States for the eastern district of Louisiana, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to a motion praying for a suspensive appeal, filed in the clerk's office of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, wherein Cheney Johnson, T. D. Hine, and H. H. Smith are appellants, and the United States of America are defendants, to show cause, if any there be, why the judgment rendered against the said Cheney Johnson, T. D. Hine, and H. H. Smith, as in said motion mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this sixth day of March, in the year of our Lord one thousand eight hundred and sixty-six.

E. H. DURELL, *Judge.*

64 *Marshal's return.*

Received March 6th, 1866, and on the 7th day of same month and year served a copy of the within citation of appeal on the United States of America, the defendants in appeal, by leaving said document in the hands of Jno. K. Goodloe, esq., the U. S. district attorney for the eastern district of Louisiana, in his office in the custom-house building in this city.

New Orleans, March 7th, 1866.

J. J. PRIES, *D'y U. S. Marshal.*

65 Circuit court of the United States, 5th circuit and district of Louisiana, November term, A. D. 1866.

NEW ORLEANS, *Saturday, 17th day of November*, 1866.

Court met pursuant to adjournment. Present: the honorable E. H. Durell, dist. judge, the honorable judge.

UNITED STATES
vs.
STEAMER LOUIS D'OR. } No. 3,614.

On motion of W. C. Budd, proctor for claimant, it is ordered that P. H. Morgan, esq., U. S. district attorney, show cause on why the property libelled in the above-entitled cause should not be restored to claimant, Cheney Johnson, on his filing and pleading in this hon. court the pardon and amnesty granted to him by his excellency the President of the United States, and on his paying all proper costs and charges incurred in said suit.

And service being accepted, the rule was taken up, and after hearing argument the court took time to advise.

CLERK'S OFFICE.

I certify the foregoing to be a true copy from the original record in this office. Witness my hand and seal of said court, at the city of New Orleans, this 21st day of November, 1866.

[SEAL. F. B. VINOT, *D'y Clerk.*

[5-cent stamp, cancelled.]

66 Circuit court of the United States, 5th circuit and district of Louisiana, November term, A. D. 1866.

NEW ORLEANS, *Monday, 19th day of November*, 1866.

Court met pursuant to adjournment. Present: the honorable E. H. Durell, dist. judge; the honorable , judge.

UNITED STATES
vs.
STEAMER LOUIS D'OR. } No. 3,614.

Considering that the defendant has taken a suspensive appeal to the Supreme Court of the United States, and that this court is now without jurisdiction in the premises, ordered that the rule taken by defendants, on 17th instant, be discharged with costs.

CLERK'S OFFICE.

I certify the foregoing to be a true copy from the original record in this office.

Witness my hand and seal of said court, at the city of New Orleans, this 21st day of November, 1866.

[SEAL.] F. B. VINOT, *D'y Clerk.*

[5-ct. stamp, cancelled.]

67 Andrew Johnson, President of the United States of America, to all to whom these presents shall come, greeting:

Whereas Cheny Johnson, of New Orleans, Louisiana, by taking part in the late rebellion against the government of the United States has made himself liable to heavy pains and penalties;

And whereas the circumstances of his case render him a proper object of executive clemency:

Now, therefore, be it known that I, Andrew Johnson, President of the United States of America, in consideration of the premises, divers other good and sufficient reasons me thereunto moving, do hereby grant to the said Cheny Johnson a full pardon and amnesty for
68 all offences by him committed, arising from participation, direct or implied, in the said rebellion, conditioned as follows:

1st. This pardon is to be of no effect until the said Cheny Johnson shall take the oath prescribed in the proclamation of the President, dated May 29th, 1865.

2d. To be void and of no effect if the said Cheny Johnson shall hereafter at any time acquire any property whatever in slaves, or make use of slave labor.

3d. That the said Cheny Johnson first pay all costs which may have accrued in any proceedings instituted or pending against his person or property before the date of the acceptance of this warrant.

4th. That the said Cheny Johnson shall not, by virtue of
69 this warrant, claim any property or the proceeds of any property that has been sold by the order, judgment, or decree of a court under the confiscation laws of the United States.

5th. That the said Cheny Johnson shall notify the Secretary of State in writing that he has received and accepted the foregoing pardon.

In testimony whereof I have hereunto signed my name and caused the seal of the United States to be affixed.

Done at the city of Washington, this twenty-fifth day of June, A. D. 1866, and of the independence of the United States the ninetieth.

(Signed) ANDREW JOHNSON. [SEAL.]

70 By the President:

(Signed) WILLIAM H. SEWARD,
Secretary of State.

Circuit court of the United States, fifth circuit and district of Louisiana.

CLERK'S OFFICE.

A true copy of the original on file.
New Orleans, November 21st, 1866.
[SEAL.] CH'S CLAIBORNE, *Clerk.*

[5-ct. stamp, cancelled.]